

COPY

Customer Number: 000959

Attorney's
Docket
Number TTI-180

Declaration, Petition and Power of Attorney for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

NOVEL VECTORS AND GENES EXHIBITING INCREASED EXPRESSION
the specification of which

(check one)

 is attached hereto.

X was filed on December 4, 1998 as

Application Serial No. 09/205,817

and was amended on _____
(if applicable)

I do not know and do not believe that the subject matter of this application was known or used by others in the United States or patented or described in a printed publication in any country before my invention thereof, or patented or described in a printed publication in any country or in public use or on sale in the United States more than one year prior to the date of this application, or first patented or caused to be patented or made the subject of an inventor's certificate by me or my legal representatives or assigns in a country foreign to the United States prior to the date of this application on an application filed more than twelve months (six months if this application is for a design) before the filing of this application; and I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, that no application for patent or inventor's certificate on the subject matter of this application has been filed by me or my representatives or assigns in any country foreign to the United States, except those identified below, and that I have reviewed and understand the contents of the specification, including the claims as amended by any amendment referred to herein.

I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

CLAIM OF BENEFIT OF EARLIER FOREIGN APPLICATION(S)

I hereby claim priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below, and have also identified below any foreign application(s) for patent or inventor's certificate filed by me on the same subject matter having a filing date before that of the application(s) from which priority is claimed.

Check one:

☒ no such applications have been filed.

☐ such applications have been filed as follows

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Country	Application Number	Date of Filing (month,day,year)	Priority Claimed Under 35 USC 119
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

[illegible]

<u>PCT/US98/25354</u>	<u>November 25, 1998</u>	<u>Pending</u>
(Application Serial No.)	(Filing Date)	(Status) (patented,pending,aband.)
<u>(Application Serial No.)</u>	<u>(Filing Date)</u>	<u>(Status)</u> <u>(patented,pending,aband.)</u>

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

W. Hugo Liepmann	Reg. No. 20,407	Lawrence E. Monks	Reg. No. 34,224
James E. Cockfield	Reg. No. 19,162	David A. Lane, Jr.	Reg. No. 39,261
Thomas V. Smurzynski	Reg. No. 24,798	Catherine J. Kara	Reg. No. 41,106
Ralph A. Loren	Reg. No. 29,325	Scott D. Rothenberger	Reg. No. 41,277
Giulio A. DeConti, Jr.	Reg. No. 31,503	Linda M. Chinn	Reg. No. 31,240
Ann Lamport Hammitte	Reg. No. 34,858	Kevin J. Canning	Reg. No. 35,470
Elizabeth A. Hanley	Reg. No. 33,505	Faustino A. Lichauco	Reg. No. 41,942
Amy E. Mandragouras	Reg. No. 36,207	C. Eric Schulman	Reg. No. 43,350
John V. Bianco	Reg. No. 36,748	Jeanne M. DiGiorgio	Reg. No. 41,710
Anthony A. Laurentano	Reg. No. 38,220	Megan E. Williams	Reg. No. 43,270
Jane E. Remillard	Reg. No. 38,872	Nicholas P. Triano III	Reg. No. 36,397
Jeremiah Lynch	Reg. No. 17,425	Peter C. Lauro	Reg. No. 32,360
		Reza Mollaaghababa	Reg. No. P43,810
		Timothy J. Douros	Reg. No. 41,716

Send Correspondence to Giulio A. DeConti, Jr. at **Customer Number: 000959** whose address is:


Lahive & Cockfield, LLP, 28 State Street, Boston, MA 02109

Direct Telephone Calls to: (name and telephone number)

Jane E. Remillard, (617) 227-7400

Wherefore I petition that letters patent be granted to me for the invention or discovery described and claimed in the attached specification and claims, and hereby subscribe my name to said specification and claims and to the foregoing declaration, power of attorney, and this petition.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Charles R. Ill	
Inventor's signature 	Date 2/5/99
Residence 1098 Oceanic Drive, Encinitas, CA 92024	
Citizenship United States of America	
Post Office Address (if different) Same as Above	

Full name of second inventor, if any

Jose E. N. Gonzales

Inventor's signature

Jose E. N. Gonzales

Date

2/5/00

Residence

7546 Dancy Road, San Diego, Ca 92126

Citizenship

United States of America

Post Office Address (if different)

Same as Above

Full name of third inventor, if any

Claire Q. Yang

Inventor's signature

Claire Q. Yang

Date

2-5-99

Residence

7707 Sitro Musica, Carlsbad, CA 92009

Citizenship

United States of America

Post Office Address (if different)

Same as Above

Full name of fourth inventor, if any

Scott Bidlingmaier

Inventor's signature

Date

Residence

433 Edgewood Ave, New Haven, CT 06511

Citizenship

United States of America

Post Office Address (if different)

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the specification of which

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☐ is attached hereto.

☒ was filed on December 4, 1998 as

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and was amended on _____
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ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

[illegible]

December 5, 1997
(Filing Date)

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of any earlier United States application(s) or PCT international application(s) designating the United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the earlier application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date(s) of the earlier application(s) and the national or PCT international filing date of this application. As to subject matter of this application which is common to my earlier application(s), if any, described below, I do not know and do not believe that the same was known or used by others in the United States or patented or described in a printed publication in any country before my invention thereof, or patented or described in a printed publication in any country or in public use or on sale in the United States more than one year prior to the date(s) of said earlier application(s), or first patented or caused to be patented or made the subject of an inventor's certificate by me or my legal representatives or assigns in a country foreign to the United States prior to the date(s) of said earlier application(s) on an application filed more than twelve months (six months if this application is for a design) before the filing of said earlier application(s); and I acknowledge that no application for patent or inventor's certificate on said subject matter has been filed by me or my representatives or assigns in any country foreign to the United States except those identified herein.

<u>PCT/US98/25354</u>	<u>November 25, 1998</u>	<u>Pending</u>
(Application Serial No.)	(Filing Date)	(Status)
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Anthony A. Laurentano	Reg. No. 38,220	Megan E. Williams	Reg. No. 43,270
Jane E. Remillard	Reg. No. 38,872	Nicholas P. Triano III	Reg. No. 36,397
Jeremiah Lynch	Reg. No. 17,425	Peter C. Lauro	Reg. No. 32,360
		Reza Mollaaghababa	Reg. No. P43,810
		Timothy J. Douros	Reg. No. 41,716

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Lahive & Cockfield, LLP, 28 State Street, Boston, MA 02109

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Jane E. Remillard, (617) 227-7400

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Charles R. Ill	
Inventor's signature	Date
Residence 1098 Oceanic Drive, Encinitas, CA 92024	
Citizenship United States of America	
Post Office Address (if different) Same as Above	

Jose E. N. Gonzales

Date _____

7546 Dancy Road, San Diego, Ca 92126

United States of America

Same as Above

Claire Q. Yang

Date _____

7707 Sitro Musica, Carlsbad, CA 92009

United States of America

Same as Above

Scott Bidlingmaier

Date _____

433 Edgewood Ave, New Haven, CT 06511

United States of America

Same as Above

Applicant or Patentee: Charles R. [redacted] Attorney's
Serial or Patent No.: 09/205,817 [redacted] Patent No.: TTI-180
Filed or Issued: December 4, 1998
Title: NOVEL VECTORS AND GENES EXHIBITING INCREASED EXPRESSION

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

COPY

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN The Immune Response Corporation

ADDRESS OF SMALL BUSINESS CONCERN 5935 Darwin Court

Carlsbad, CA 92008

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

- ☐ the specification filed herewith with title as listed above.
☒ the application identified above.
☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statement were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Dennis J. Carlo

TITLE OF PERSON OTHER THAN OWNER President and CEO

ADDRESS OF PERSON SIGNING The Immune Response Corporation, 5935 Darwin Court, Carlsbad, CA 92008

SIGNATURE Dennis J. Carlo DATE 2/5/98

BEST AVAILABLE COPY